

Remarks

Examiner Orwig imposed a restriction requirement under 35 U.S.C. §121 against claims 87-122 and required that an election be made between one of the following groups:

Group I: claims 87-116, 121 and 122, drawn to an animal feed composition;

Group II: claims 117 and 120 drawn to a method of making an animal feed composition; and

Group III: claims 118 and 119, drawn to a method of using an animal feed composition.

Applicant provisionally elects with traverse, the invention of Group I drawn to claims 87-116, 121 and 122, for further examination on the merits.

Further, the Examiner has stated that the applicant is required to select a species from claim 98, if Group I claims is chosen to proceed for examination. In response, applicant selects “microbes” as the bioactive agent. Further when the generic claim is found patentable, all species should also be found patentable.

In accordance with Office guidelines recited in MPEP Section 821.04, elected apparatus claims found to recite patentable subject matter may be rejoined with the provisionally withdrawn method of use claims and examined in this one application provided the method of use recite limitations corresponding to those found to be patentable during examination of the elected invention. As such, when the product claims are found to recite patentable subject matter, non-elected method claims should be taken up for examination.

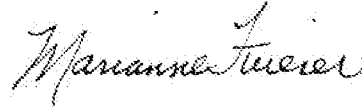
Fees Payable

No fee is due at this time, however, if a fee is found due for entry of this amendment, the Commissioner is authorized to charge such fee to Deposit Account No. 13-4365 of Moore & Van Allen.

Conclusion

If any issues remain outstanding incident to the prosecution of the application, Examiner Orwig is requested to contact the undersigned attorney at (919) 286-8089.

Respectfully submitted,

A handwritten signature in cursive script, reading "Marianne Fuierer".

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